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15 Attorneys for Plaintiff

16 **IN THE UNITED STATES DISTRICT COURT**
17 **FOR THE CENTRAL DISTRICT OF CALIFORNIA**
18 **WESTERN DIVISION**

19 **CANH LE,**

20 **Plaintiff,**

21 **v.**

22 **DIRECTV, LLC,**

23 **Defendant.**

24 **Case No. 16-cv-1369 SVW-AS**

25 **PLAINTIFFS' NOTICE OF MOTION**
26 **AND MOTION FOR PARTIAL**
27 **SUMMARY JUDGMENT**

28 **Date: September 11, 2017**

Time: 1:30 p.m.

Courtrm: 10A

Hon. Stephen V. Wilson

29 **TO: THE CLERK OF THE COURT AND ALL PARTIES AND**
30 **THEIR RESPECTIVE COUNSEL:**

1 **PLEASE TAKE NOTICE** that on September 11, 2017 at 1:30 p.m., or as
 2 soon thereafter as the matter may be heard, before the Honorable Stephen V.
 3 Wilson, in Courtroom 10A of the United States District Court located at 350 W.
 4 First Street, Los Angeles, California 90012, Plaintiffs Paul Guzik, Jeffrey Kidd,
 5 Jeremy Lasater, Canh Le, Mendamar Lkhagvodorj, Jamie Nault, Armando Solis
 6 Juarez, Henry Trujeque, and David Varas (collectively, “Plaintiffs¹”) will move
 7 this Court for an Order granting Plaintiffs partial summary judgment on the
 8 fundamental legal issue underlying these cases: that Defendant DIRECTV, LLC
 9 (“DIRECTV”) employed Plaintiffs under California labor law and the Fair Labor
 10 Standards Act (“FLSA”).

11 In *Martinez v. Combs*, 49 Cal. 4th 35 (2010), the California Supreme Court
 12 held that the word “employ,” for purposes of California labor law, has three
 13 alternative definitions: (a) to exercise control over the wages, hours or working
 14 conditions, or (b) to suffer or permit to work, or (c) to engage, thereby creating a
 15 common law employment relationship. *Id.*, at 64. In this motion, Plaintiffs move
 16 for partial summary judgment on the basis that (1) DIRECTV suffered or permitted
 17 Plaintiffs to work for DIRECTV and (2) DIRECTV employed Plaintiffs under the
 18 common law standard. As detailed in the Statement of Facts and Conclusions of
 19 Law filed contemporaneously herewith, DIRECTV controlled nearly every facet of
 20 Plaintiffs’ work. Based on the undisputed material facts, DIRECTV employed
 21 Plaintiffs under California labor law.

22
 23 ¹ “Plaintiffs” are Canh Le (Case No. 2:16-cv-01369-SVW-AS), Jeremy Lasater
 24 (Case No. 2:16-cv-01373-SVW-AS), David Varas (Case No. 2:16-cv-01395-
 25 SVW-AS), Mendamar Lkhagvodorj (Case No. 2:16-cv-01502-SVW-AS), Henry
 26 Trujeque (Case No. 2:16-cv-01477-SVW-AS), Paul Guzik (Case No. 2:16-cv-
 27 01967-SVW-AS), Jeffrey Kidd (Case No. 2:16-cv-01506-SVW-AS), Armando
 28 Solis Juarez (Case No. 5:16-cv-00400-SVW-AS), and Jamie Nault (Case No. 2:16-
 cv-05721-SVW-AS) (collectively, the “related cases”). Pursuant to the Court’s In
 Chambers Order Setting Schedule (*Le* Dkt. 74 at 1), Plaintiffs are filing a
 consolidated motion for partial summary judgment.

1 Similarly, the FLSA contains a broad definition of the term “employer,”
2 which serves the statute’s remedial purpose, and turns on the economic reality of
3 the parties’ relationship, and the Ninth Circuit has provided a non-exclusive list of
4 factors to assist district courts in making that determination. In this case, Plaintiffs
5 were an integral part of DIRECTV’s work force, and DIRECTV had the power to,
6 among other things, hire and fire Plaintiffs, supervise and control Plaintiffs and
7 their daily work conditions, significantly determine Plaintiffs’ pay, and maintain
8 employment records on Plaintiffs. These facts, among others listed in Plaintiffs’
9 Statement of Facts and Conclusions of Law and analyzed in the accompanying
10 memorandum of points and authorities, compel the conclusion that DIRECTV
11 employed Plaintiffs as it employed the similarly-situated subcontractor technicians
12 in *Perez v. Lantern Light Corp.*, No. C12-01406 RSM, 2015 WL 3451268 (W.D.
13 Wash. May 29, 2015).

14 This consolidated motion is based on this Notice of Motion and Motion, the
15 accompanying Memorandum of Points and Authorities, the Statement of Facts and
16 Conclusions of Law, the Declaration of J. Toji Calabro and all exhibits thereto, the
17 Declaration of Plaintiff Guzik, the Declaration of Plaintiff Kidd, the Declaration of
18 Plaintiff Lasater, the Declaration of Plaintiff Le, the Declaration of Plaintiff
19 Lkhagvdorj, the Declaration of Plaintiff Nault, the Declaration of Plaintiff Juarez,
20 the Declaration of Plaintiff Trujeque, the Declaration of Plaintiff Varas, the
21 pleadings and other papers filed in this and the related actions filed in this Court,
22 and such further evidence, arguments and briefing as may be allowed or presented
23 at or before the hearing on this motion.

1 Dated: July 7, 2017

STUEVE SIEGEL & HANSON LLP

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3 By /s/ J. Toji Calabro

J. Toji Calabro, CA Bar No. 239950

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